

108TH CONGRESS
1ST SESSION

H. R. 2070

To amend title XVIII of the Social Security Act to revitalize and improve the Medicare+Choice program.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2003

Mr. GREENWOOD (for himself, Mr. ISRAEL, and Mr. FOSSELLA) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to revitalize and improve the Medicare+Choice program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare+Choice Re-
5 vitalization Act of 2003”.

6 **SEC. 2. MEDICARE+CHOICE IMPROVEMENTS.**

7 (a) EQUALIZING PAYMENTS BETWEEN FEE-FOR-
8 SERVICE AND MEDICARE+CHOICE.—

1 (1) IN GENERAL.—Section 1853(c)(1) of the
2 Social Security Act (42 U.S.C. 1395w-23(c)(1)) is
3 amended by adding at the end the following:

4 “(D) BASED ON 100 PERCENT OF FEE-
5 FOR-SERVICE COSTS.—

6 “(i) IN GENERAL.—For 2004 and any
7 subsequent year, the adjusted average per
8 capita cost for the year involved, deter-
9 mined under section 1876(a)(4) for the
10 Medicare+Choice payment area for serv-
11 ices covered under parts A and B for indi-
12 viduals entitled to benefits under part A
13 and enrolled under part B who are not en-
14 rolled in a Medicare+Choice plan under
15 this part for the year.

16 “(ii) INCLUSION OF COSTS OF VA AND
17 DOD MILITARY FACILITY SERVICES TO
18 MEDICARE-ELIGIBLE BENEFICIARIES.—In
19 determining the adjusted average per cap-
20 ita cost under clause (i) for a year, such
21 cost shall be adjusted to include the Sec-
22 retary’s estimate, on a per capita basis, of
23 the amount of additional payments that
24 would have been made in the area involved
25 under this title if individuals entitled to

1 benefits under this title had not received
 2 services from facilities of the Department
 3 of Veterans Affairs or the Department of
 4 Defense.”.

5 (2) CONFORMING AMENDMENT.—Such section
 6 is further amended, in the matter before subpara-
 7 graph (A), by striking “or (C)” and inserting “(C),
 8 or (D)”.

9 (b) REVISION OF BLEND.—

10 (1) REVISION OF NATIONAL AVERAGE USED IN
 11 CALCULATION OF BLEND.—Section
 12 1853(c)(4)(B)(i)(II) of such Act (42 U.S.C. 1395w–
 13 23(c)(4)(B)(i)(II)) is amended by inserting “who
 14 (with respect to determinations for 2004 and any
 15 subsequent year) are enrolled in a Medicare+Choice
 16 plan” after “the average number of medicare bene-
 17 ficiaries”.

18 (2) CHANGE IN BUDGET NEUTRALITY.—Section
 19 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is
 20 amended—

21 (A) in paragraph (1)(A), by inserting “(for
 22 a year before 2003)” after “multiplied”; and

23 (B) in paragraph (5), by inserting “(before
 24 2003)” after “for each year”.

1 (c) REVISION IN MINIMUM PERCENTAGE IN-
2 CREASE.—Section 1853(c)(1)(C) of such Act (42 U.S.C.
3 1395w-23(c)(1)(C)) is amended by striking clause (iv)
4 and inserting the following:

5 “(iv) For 2002 and 2003, 102 percent
6 of the annual Medicare+Choice capitation
7 rate under this paragraph for the area for
8 the previous year.

9 “(v) For 2004 and each succeeding
10 year, 104 percent of the annual
11 Medicare+Choice capitation rate under
12 this paragraph for the area for the pre-
13 vious year.”.

14 (d) INCLUSION OF COSTS OF DOD AND VA MILI-
15 TARY FACILITY SERVICES TO MEDICARE-ELIGIBLE
16 BENEFICIARIES IN CALCULATION OF MEDICARE+CHOICE
17 PAYMENT RATES.—Section 1853(c)(3) of such Act (42
18 U.S.C. 1395w-23(c)(3)) is amended—

19 (1) in subparagraph (A), by striking “subpara-
20 graph (B)” and inserting “subparagraphs (B) and
21 (E)”, and

22 (2) by adding at the end the following new sub-
23 paragraph:

24 “(E) INCLUSION OF COSTS OF DOD AND
25 VA MILITARY FACILITY SERVICES TO MEDICARE-

1 ELIGIBLE BENEFICIARIES.—In determining the
2 area-specific Medicare+Choice capitation rate
3 under subparagraph (A) for a year (beginning
4 with 2004), the annual per capita rate of pay-
5 ment for 1997 determined under section
6 1876(a)(1)(C) shall be adjusted to include in
7 the rate the Secretary’s estimate, on a per cap-
8 ita basis, of the amount of additional payments
9 that would have been made in the area involved
10 under this title if individuals entitled to benefits
11 under this title had not received services from
12 facilities of the Department of Defense or the
13 Department of Veterans Affairs.”.

14 (e) ANNOUNCEMENT OF REVISED
15 MEDICARE+CHOICE PAYMENT RATES.—Within 4 weeks
16 after the date of the enactment of this Act, the Secretary
17 shall determine, and shall announce (in a manner intended
18 to provide notice to interested parties) Medicare+Choice
19 capitation rates under section 1853 of the Social Security
20 Act (42 U.S.C. 1395w–23) for 2004, revised in accordance
21 with the provisions of this section.

22 (f) MEDPAC STUDY OF AAPCC.—

23 (1) STUDY.—The Medicare Payment Advisory
24 Commission shall conduct a study that assesses the
25 method used for determining the adjusted average

1 per capita cost (AAPCC) under section 1876(a)(4)
2 of the Social Security Act (42 U.S.C.
3 1395mm(a)(4)). Such study shall examine—

4 (A) the bases for variation in such costs
5 between different areas, including differences in
6 input prices, utilization, and practice patterns;

7 (B) the appropriate geographic area for
8 payment under the Medicare+Choice program
9 under part C of title XVIII of such Act; and

10 (C) the accuracy of risk adjustment meth-
11 ods in reflecting differences in costs of pro-
12 viding care to different groups of beneficiaries
13 served under such program.

14 (2) REPORT.—Not later than 9 months after
15 the date of the enactment of this Act, the Commis-
16 sion shall submit to Congress a report on the study
17 conducted under paragraph (1). Such report shall
18 include recommendations regarding changes in the
19 methods for computing the adjusted average per
20 capita cost among different areas.

21 (g) REPORT ON IMPACT OF INCREASED FINANCIAL
22 ASSISTANCE TO MEDICARE+CHOICE PLANS.—Not later
23 than July 1, 2004, the Secretary of Health and Human
24 Services shall submit to Congress a report that describes
25 the impact of additional financing provided under this Act

1 and other Acts (including the Medicare, Medicaid, and
 2 SCHIP Balanced Budget Refinement Act of 1999 and
 3 BIPA) on the availability of Medicare+Choice plans in
 4 different areas and its impact on lowering premiums and
 5 increasing benefits under such plans.

6 **SEC. 3. MAKING PERMANENT CHANGE IN**
 7 **MEDICARE+CHOICE REPORTING DEADLINES**
 8 **AND ANNUAL, COORDINATED ELECTION PE-**
 9 **RIOD.**

10 (a) CHANGE IN REPORTING DEADLINE.—Section
 11 1854(a)(1) of the Social Security Act (42 U.S.C. 1395w–
 12 24(a)(1)) is amended by striking “2002, 2003, and 2004
 13 (or July 1 of each other year)” and inserting “2002 and
 14 each subsequent year (or July 1 of each year before
 15 2002)”.

16 (b) DELAY IN ANNUAL, COORDINATED ELECTION
 17 PERIOD.—Section 1851(e)(3)(B) of such Act (42 U.S.C.
 18 1395w–21(e)(3)(B)) is amended by striking “and after
 19 2005, the month of November before such year and with
 20 respect to 2003, 2004, and 2005” and inserting “, the
 21 month of November before such year and with respect to
 22 2003 and any subsequent year”.

23 (c) ANNUAL ANNOUNCEMENT OF PAYMENT
 24 RATES.—Section 1853(b)(1) of such Act (42 U.S.C.
 25 1395w–23(b)(1)) is amended by striking “and after 2005

1 not later than March 1 before the calendar year concerned
 2 and for 2004 and 2005” and inserting “not later than
 3 March 1 before the calendar year concerned and for 2004
 4 and each subsequent year”.

5 (d) REQUIRING PROVISION OF AVAILABLE INFORMA-
 6 TION COMPARING PLAN OPTIONS.—The first sentence of
 7 section 1851(d)(2)(A)(ii) of such Act (42 U.S.C. 1395w-
 8 21(d)(2)(A)(ii)) is amended by inserting before the period
 9 the following: “to the extent such information is available
 10 at the time of preparation of materials for the mailing”.

11 **SEC. 4. AVOIDING DUPLICATIVE STATE REGULATION.**

12 (a) IN GENERAL.—Section 1856(b)(3) of the Social
 13 Security Act (42 U.S.C. 1395w-26(b)(3)) is amended to
 14 read as follows:

15 “(3) RELATION TO STATE LAWS.—The stand-
 16 ards established under this subsection shall super-
 17 sede any State law or regulation (other than State
 18 licensing laws or State laws relating to plan sol-
 19 vency) with respect to Medicare+Choice plans which
 20 are offered by Medicare+Choice organizations under
 21 this part.”.

22 (b) EFFECTIVE DATE.—The amendment made by
 23 subsection (a) shall take effect on the date of the enact-
 24 ment of this Act.

1 **SEC. 5. SPECIALIZED MEDICARE+CHOICE PLANS FOR SPE-**
 2 **CIAL NEEDS BENEFICIARIES.**

3 (a) TREATMENT AS COORDINATED CARE PLAN.—
 4 Section 1851(a)(2)(A) of the Social Security Act (42
 5 U.S.C. 1395w–21(a)(2)(A)) is amended by adding at the
 6 end the following new sentence: “Specialized
 7 Medicare+Choice plans for special needs beneficiaries (as
 8 defined in section 1859(b)(4)) may be any type of coordi-
 9 nated care plan.”.

10 (b) SPECIALIZED MEDICARE+CHOICE PLAN FOR
 11 SPECIAL NEEDS BENEFICIARIES DEFINED.—Section
 12 1859(b) of such Act (42 U.S.C. 1395w–29(b)) is amended
 13 by adding at the end the following new paragraph:

14 “(4) SPECIALIZED MEDICARE+CHOICE PLANS
 15 FOR SPECIAL NEEDS BENEFICIARIES.—

16 “(A) IN GENERAL.—The term ‘specialized
 17 Medicare+Choice plan for special needs bene-
 18 ficiaries’ means a Medicare+Choice plan that
 19 exclusively serves special needs beneficiaries (as
 20 defined in subparagraph (B)).

21 “(B) SPECIAL NEEDS BENEFICIARY.—The
 22 term ‘special needs beneficiary’ means a
 23 Medicare+Choice eligible individual who—

24 “(i) is institutionalized (as defined by
 25 the Secretary);

1 “(ii) is entitled to medical assistance
2 under a State plan under title XIX;

3 “(iii) is residing in a Continuing Care
4 Retirement Community (as defined in sec-
5 tion 1852(l)(4)(B); or

6 “(iv) meets such requirements as the
7 Secretary may determine would benefit
8 from enrollment in such a specialized
9 Medicare+Choice plan described in sub-
10 paragraph (A) for individuals with severe
11 or disabling chronic conditions.”.

12 (c) RESTRICTION ON ENROLLMENT PERMITTED.—
13 Section 1859 of such Act (42 U.S.C. 1395w–29) is
14 amended by adding at the end the following new sub-
15 section:

16 “(f) RESTRICTION ON ENROLLMENT FOR SPECIAL-
17 IZED MEDICARE+CHOICE PLANS FOR SPECIAL NEEDS
18 BENEFICIARIES.—In the case of a specialized
19 Medicare+Choice plan (as defined in subsection (b)(4)),
20 notwithstanding any other provision of this part and in
21 accordance with regulations of the Secretary and for peri-
22 ods before January 1, 2007, the plan may restrict the en-
23 rollment of individuals under the plan to individuals who
24 are within one or more classes of special needs bene-
25 ficiaries.”.

1 (d) REPORT TO CONGRESS.—Not later than Decem-
2 ber 31, 2006, the Medicare Benefits Administrator shall
3 submit to Congress a report that assesses the impact of
4 specialized Medicare+Choice plans for special needs bene-
5 ficiaries on the cost and quality of services provided to
6 enrollees. Such report shall include an assessment of the
7 costs and savings to the medicare program as a result of
8 amendments made by subsections (a), (b), and (c).

9 (e) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendments made by
11 subsections (a), (b), and (c) shall take effect upon
12 the date of the enactment of this Act.

13 (2) DEADLINE FOR ISSUANCE OF REQUIRE-
14 MENTS FOR SPECIAL NEEDS BENEFICIARIES; TRAN-
15 SITION.—No later than 6 months after the date of
16 the enactment of this Act, the Secretary of Health
17 and Human Services shall issue final regulations to
18 establish requirements for special needs beneficiaries
19 under section 1859(b)(4)(B)(iii) of the Social Secu-
20 rity Act, as added by subsection (b).

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